## GENERAL DEPARTMENT.

When any officer delivers over charge of any Department, the officer delivering and the officer receiving charge should report the same in a joint letter, instead of in separate letters.

By order of the Right Honourable
the Governor in Council,

C. J. ERSKINE,
Deputy Secretary to Government.

*Bombay Castle, 24th October* 1849.

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## CIRCULAR.

No. 627 OF 1833.

To
THE COLLECTORS.

SIR,

Instances have occurred wherein officers transferred from one appointment to another have, without awaiting the arrival of the person appointed to relieve them, delivered over charge to Junior Assistants and quitted the station without orders. I am directed to inform you that the Right Honourable the Governor in Council is pleased strictly to prohibit such an irregularity and to direct that no officer so circumstanced make over the office of which he may be in charge to any one except the person regularly appointed to this situation, unless a special order of Government authorize any other mode of procedure.

*Bombay Castle, 23rd February* 1833.

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## CIRCULAR.

No. 3127 OF 1873.

REVENUE DEPARTMENT.

Bombay Castle, 31st May 1873.

His Excellency the Governor in Council is pleased to direct that all officers, on receipt of the Government orders of their appointments to other stations, must join their new appointments within the allotted time, and that when they receive intimations to do so without delay, they are at once to start.

*Appointments.*

No. 3737.

REVENUE DEPARTMENT.

Bombay Castle, 1st July 1873.

Memorandum from the Revenue Commissioner, N. D., No. 2874, dated 19th June 1873—Submitting for orders a letter No. 1582, dated 14th idem, from the Collector of Surat, who enquires whether he is right in understanding Government Circular No. 3127, of 31st May 1873, to be subject to the following reservations :—

(1) That an Assistant is not to start for a new appointment till he has duly handed over charge to the officer whom the Collector may designate to receive it.

(2) That a Collector may, if he think it absolutely necessary for the public service, detain an Assistant pending a reply to a reference representing the circumstances which he may make to Government.

RESOLUTION.—The object of the Circular was plain. It was to put a stop to the practice that was found to prevail of Collectors taking upon themselves to judge whether an Assistant could or could not be conveniently spared.

2. Heads of Offices will now be held responsible for arranging that their Assistants are relieved without delay.

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*Compensation.—Accounts.*

No. 1784.

FINANCIAL DEPARTMENT.

Bombay Castle, 24th May 1880.

Resolution of the Government of India, Department of Finance and Commerce, No. 390, dated 4th May 1880 :—

"Read—

The Proceedings of the Government of Bombay in the Public Works Department No. 86-E—229, dated the 11th March 1880, sanctioning the grant of compensation to Sergeant C. Veale for the loss of his property by the foundering of the steamship *Vingorla*, in which he was proceeding on duty to join the Kandahar Railway.

RESOLUTION.—As the money has already been paid to Sergeant Veale, the Governor General in Council will not withhold confirmation of the sanction accorded by the Government of Bombay. The amount (Rs. 699-4-0) should be adjusted as a contingent charge of the Kandahar Railway.

2. His Excellency in Council is not prepared to admit that a public officer is entitled to compensation for loss of property caused by an accident of this kind merely because such accident may have happened to him while he was employed in the service of the State. The Government cannot guarantee its officers against every loss which they may suffer while in its service, and, in future, compensation should not be given to public officers for accidental losses of their property."

RESOLUTION.—Copies to be forwarded to all Departments of the Secretariat and all Heads of Offices under those Departments for information and guidance.

*Pecuniary contributions from Native States : No — to be applied for by Government officers without the sanction of the Local Government.*

No. 2760.

GENERAL DEPARTMENT.

Bombay Castle, 24th July 1885.

Resolution of the Government of India in the Home Department (Public), No. 31—1217-42, dated 11th July 1885 :—

"It has recently been brought to the notice of the Government of India that no rule exists regulating the circumstances under which officers of Government may apply to Native Chiefs for pecuniary contributions towards public objects. As it is for many reasons undesirable that such applications should be made except with the permission of superior authority, the Governor General in Council is pleased to direct that in future no officer of Government shall ask or accept pecuniary aid or subscriptions from Native Chiefs or officials of Native States in pursuance of public objects, except with the sanction previously obtained of the Local Government to which he may be subordinate."

RESOLUTION.—Copies of the Resolution of the Government of India should be forwarded to all Departments of the Secretariat and to all Heads of Offices for information and guidance.

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*Pecuniary contributions from Native States: No — to be applied for by Government officers without the sanction of the Local Government.*

No. 4384.

GENERAL DEPARTMENT.

Bombay Castle, 19th November 1885.

Memorandum from the Government of India, Home Department (Public), No. 52—1867-87, dated 28th October 1885—Forwarding for information copy of the following letter, No. 1866 of the same date, addressed to the Government of Madras :—

"I am directed to acknowledge the receipt of your letter No. 2286, Miscellaneous, dated the 28th ultimo, enquiring (1) whether the ruling contained in Home Department Resolution of the 11th July 1885, that no officer of Government should ask or accept pecuniary aid or subscriptions from Native Chiefs or officials of Native States in pursuance of public objects without the previous sanction of the Local Government, is intended to apply to Local and Municipal Boards; and (2) whether the term 'Native Chiefs' as used in the Resolution includes ordinary Zamindars.

"2. In reply, I am to say that the orders contained in the Resolution cited were intended to apply to officers of Government acting in their individual capacity and not to Local and Municipal Boards. I am to add that there appears to the Government of India to be no reason why Local or Municipal Boards should not invite the assistance of local Zamindars towards public objects."

RESOLUTION.—Copies of the Resolution of the Government of India should be forwarded to all Departments of the Secretariat and to all Heads of Offices in continuation of Government Resolution No. 2760, dated 24th July 1885.

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*Dismissals.*

No. 2218.

GENERAL DEPARTMENT.

Bombay Castle, 18th August 1879.

Read the following papers :—

"*Extract from the Proceedings of the Government of India in the Home, Revenue and Agricultural Department (Public), No. 37—1389-1404, under date Simla, the 29th July 1879.*

RESOLUTION.

From time to time petitions or appeals against the orders of local officers, removing or dismissing Government servants, reach the Government of India. Such appeals ordinarily are forwarded through, or are reported upon by, the Local Governments; and the Governor General in Council is glad to say that he very rarely indeed sees ground for thinking such removals hasty or unjust. The general rule of the service is that the authority who can appoint to a particular office has power to dismiss or remove from that office; and an appeal lies from an order of dismissal to the official superior of the officer who passes such order. Since the date of the order passed by the Court of Directors in 1851, no general instructions on the subject of dismissing public servants have been circulated by the Government of India. Local Governments have from time to time issued such orders; and copy of a recent circular of the North-Western Provinces Government on the subject is appended to this Resolution. His Excellency the Governor General in Council believes that the forbearance and consideration enjoined by the Honourable Court are usually exercised by public officers of all grades and departments; but at the same time he deems it advisable to republish those instructions with the following remarks :—

1. In order that a dismissed servant of Government may be able to exercise his right of appeal, it is obviously necessary that the charge against him, his defence and the order thereon should be reduced to writing. And this course, so far as the Governor General in Council is aware, is usually taken. In the case of public servants who are dismissed in consequence of facts or inferences elicited at a judicial trial, or in the case of persons who abscond with an accusation over their heads, this procedure may be unnecessary or impossible. But in all other cases of the dismissal of public servants, the charge against a public servant should be reduced to writing, his defence should be either taken in or reduced to writing, and the decision on such defence should also be in writing. In many cases (such for instance as that of a clerk at an outlying tahsil station) the officer who passes the order of dismissal may not be able to make the enquiry himself, and the proceedings leading to dismissal would be conducted by the superior officer on the spot. The record of such charge, defence and decision would then furnish sufficient information for, and should be submitted to, the superior officer or the Government to whom the dismissed servant may prefer an appeal.

2. In regard to the rules of conduct which should guide the relations of superior officers with their subordinates, the Governor General in Council fully concurs in the views expressed by the late Court of Directors in paragraphs 4 to 9 of their Despatch No. 42 of 1851, copies of which are appended to this Resolution.

ORDER.—Ordered, that a copy of the above Resolution, with enclosures, be forwarded to all Local Governments and Administrations, and to all Departments of the Government of India, for information.

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No. 11—A., dated Camp Lucknow, the 13th April 1877.

From—C. ROBERTSON, Esq., Officiating Secretary to the Government of India, North-Western Provinces and Oudh;

To—All Heads of Departments, Commissioners, and District Officers in the North-Western Provinces and Oudh.

It has frequently been noticed by the Government in petitions from persons who have been degraded or deprived of their situations in the public service, that the petitioners have not had an opportunity of explaining their conduct, and of making

their defence before being reduced or dismissed from their appointments. The Lieutenant-Governor and Chief Commissioner accordingly directs that in all cases of punishments, and especially in all cases of dismissal, the person concerned shall always be given a hearing before the final order is passed; and a formal proceeding embodying the statements taken and the reasons of dismissal shall invariably be recorded.

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*Extract paragraphs 4 to 9 of a Despatch from the Honourable Court of Directors, No. 42, dated 6th August 1851.*

*Para. 4.*—In the letter from the Secretary to the Sadar Board of Revenue, North-Western Provinces, conveying the opinions of the Members of that Board, we notice the following passages :—

'It scarcely needs to be stated that Native officers are frequently dismissed from their situations, not for proved delinquency or any tangible matter or substantial charge, but in accordance with the opinions of their immediate superiors taken up against them sometimes hastily.

'A large portion of the public servants are under the absolute control of one officer, who has the absolute power of dismissal, and men are consequently often dismissed by caprice and also as a punishment.

'An officer often, too, dismissed a man merely as a punishment with the intention, frequently carried out, of reappointing him.

'Further, the Native servants of Government are treated with a degree of hardship which stands in remarkable contrast to the conduct adopted towards Europeans or officers of mixed parentage.

'To such an extent does this severity prevail that all prudent Natives resign when they perceive that their superiors do not regard them with favour. This state of things has the worst effect on our Native officers. It induces them to make hay while the sun shines, and to add to the severity now used by pronouncing every man dismissed incapable of serving Government would only add to the evil.

'Once again, the Junior Member of the Board takes this opportunity to put on record his deliberate opinion that less caprice, less severity, less indignity in the treatment of Native servants of Government is necessary if Government would be well served by them.'

*Para. 5.*—We confess we have perused these statements with pain and deep regret. If the treatment of Native officials by their Covenanted superiors be indeed generally of the harsh character here alleged, it is most discreditable to those members of our Civil Service who have practised it.

*Para. 6.*—But the rule we instructed you to introduce, in place of aggravating the evil, as is alleged, will, in reality, ameliorate the position of the Uncovenanted servants. We would establish it as a principle that when persons are appointed to permanent situations in any Department they should not be dismissed upon light grounds. Fraud and dishonesty, continued and wilful negligence, and all offences involving moral disgrace, meet with their appropriate punishment in dismissal, and our position is that in every case in which that punishment is inflicted upon just grounds the individual should be considered to be permanently excluded from Government employ. With regard, however, to the instances of arbitrary dismissal for slight reasons adverted to by the Secretary to the Board of Revenue, we can neither recognise their propriety nor see the advantage accruing to Government from the practice. It may be doubtful whether the punishment of temporary suspension under the name of dismissal 'with the intention of re-appointment' has any beneficial operation as regards the supposed offender. But we cannot doubt that it must tend to impede the business of the office by raising fears in the minds of the other Native officials that the caprice of their superiors may inflict upon them the same penalty. We consider it more likely that Government will be well served if it is distinctly understood that probity and diligence are the conditions of continued employment than if the subordinates work in slavish dread of their official superior, knowing that his whim, prejudice or passion may at any hour eject them from their situations and reduce them to destitution. In our opinion, moreover, the knowledge that gross misconduct will altogether exclude from the service of Government will operate as an additional inducement to the honest and attentive discharge of duty on the part of Native servants. If the offence which a subordinate may commit be considered by the chief of his office to merit severe punishment, though not the ultimate one of dismissal, the circumstances should be reported to higher authority, and, if necessary, to the Government for their judgment and decision.

*Para. 7.*—The salutary tendency of the proposed rule will therefore be to make subordinates more faithful in the discharge of their duties, and superiors more cautious in inflicting punishment upon those under their control. Necessary as it is that the power of dismissal should be vested in the Chiefs of Departments, it is equally desirable to check and, as far as may be practicable, to regulate that power. If evidence of this be required, the letter from the Agra Board of Revenue affords it, and we shall here further quote the sentiments of the Junior Member of that Board as a corroboration of the view which we are led to take of this question. He observes that since he has entered the service 'the Government have done much to temper the arbitrary severity with which their Native officers are treated by their European fellow-servants, and they have in consequence materially increased the honesty and faithfulness of that deserving class of men, but more remains to be done and he doubts not will be done by degrees.' We give due weight to the opinions to which we have adverted, and under the explanation we have now given we are not disposed to depart from our order of the 10th July 1850.

*Para. 8.*—There is, however, a class of cases which does not come within the intention of our order, though erroneously considered in this light by the authorities in the North-Western Provinces—we mean, cases of inaptitude for the particular branch of occupation to which a Native servant may have been originally appointed, as well as cases of physical incapacity. The latter must be treated according to rule, and with regard to the former we cannot but think that in the majority of cases the difficulty might be overcome by a re-adjustment of duties without recourse to the harsh step of removal from office.

*Para. 9.*—We would, in conclusion, express our hope that the notice we have taken of this subject will have the beneficial effect of inducing the exercise of greater forbearance and a more just consideration on the part of our Civil Servants towards the useful and deserving class of men placed in subordination to them. With respect to the most important class of those men, namely, those receiving salaries of above Rs. 10 a month, and to some of them under certain restrictions pensions are granted upon retirement, we think that you might issue instructions that you should be kept advised of the dismissal of all individuals composing that class, and of the causes of their dismissal. This would afford an opportunity for enquiry into cases in which the cause might appear unsatisfactory or questionable which does not at present exist. Should any instances unfortunately occur to disappoint the expectation which we have expressed, that greater forbearance and justice will be exercised towards the Native servants, we desire to be invariably informed of them, whether they shall occur in the class above referred to or in any other, and we shall feel it to be our duty to visit such conduct with the expression of our severe displeasure."

RESOLUTION.—This letter, with accompaniments, should be forwarded to all Departments of the Secretariat and to all Heads of Offices and Departments for information and guidance. It should also be published in the *Government Gazette* for general information.

*Dismissals.*

No. 2568.

GENERAL DEPARTMENT.

Bombay Castle, 6th August 1881.

Memorandum from the Government of India, Home Department (Public), No. 29—1046, dated 20th July 1881—Forwarding, for such action as may be considered desirable, copy of the following Circular (No. 33-J., dated 27th June 1881), addressed by the Government of Bengal to all Heads of Departments under that Government on the subject of the dismissal of Government servants on account of offences for which they are liable to be criminally prosecuted:—

"Cases occasionally occur in which it is considered inexpedient to undertake the prosecution of Government servants who are dismissed on account of offences for which they are liable to be criminally prosecuted. I am directed to request that in future, in such cases, the reasons which render it inexpedient to undertake a criminal prosecution may be recorded at the time that the order of dismissal is passed. When there is no objection to such a course, the reasons should be included in the order of dismissal, of which the dismissed servant receives a copy; but in every case a copy of the recorded reasons for not instituting a prosecution when the offender was liable to one should be forwarded, with any report that may afterwards be made on the case, to Government."

RESOLUTION.—Copies of the Circular issued by the Government of Bengal should be forwarded to all Departments of the Secretariat and all Heads of Offices under the several Departments, with a request that the procedure ordered by the Government of Bengal may be also adopted in this Presidency.

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*Dismissals : Rules regarding the — of Government servants.*

No. 1549.

GENERAL DEPARTMENT.

Bombay Castle, 9th May 1883.

Read again : —

Government Resolution No. 2218, dated 18th August 1879—Communicating, for general information and guidance, certain instructions laid down by the Government of India on the subject of the dismissal of public servants.

RESOLUTION.—In the orders circulated with the above Resolution the rule was laid down that in the case of the dismissal of a public servant—

(*a*) the charge against him,
(*b*) his defence, and
(*c*) the order thereon,

should be reduced to writing.

2. In inviting attention to the above standing orders, His Excellency the Governor in Council is pleased further to direct for future guidance that in *all* cases of dismissal, the dismissing authority should always record in English, under his own handwriting, a statement showing briefly but clearly the charges brought against the official, the evidence supporting those charges, the motives which are supposed to have influenced him, and the opinion of the dismissing authority on each charge.

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No. 7170.

JUDICIAL DEPARTMENT.

Bombay Castle, 16th October 1883.

Resolution of Government on the subject of the procedure that should be adopted when Native subordinates in the Civil Departments are dismissed from pensionable service for misconduct.

RESOLUTION.—The Court of Directors by Despatch No. 42 of 6th August 1851 enunciated their views on the habit imputed to European Heads of Offices and Departments of inconsiderately dismissing Native subordinates. This habit had been reported to the Court of Directors as deeply rooted. The Court quoted a member of the Agra Board of Revenue as observing that since he had entered the service "the Government have done much to temper the arbitrary severity with which their Native officers are treated by their European fellow servants, and they have in consequence materially increased the honesty and faithfulness of that deserving class of men, but more remains to be done and he doubts not will be done by degrees." The purport of the instructions then laid down was that Native subordinates were not to be dismissed merely

in consequence of unfavourable opinions entertained towards them by their superiors, or for slight reasons, but on proof only of tangible delinquency in such matters as "fraud and dishonesty, continued and wilful negligence, and all offences involving moral disgrace," and a subordinate once dismissed upon just grounds was to be "permanently excluded from Government employ."

2. After 28 years, *i.e.*, in July 1879, the habit adverted to was found to be still existent in sufficient force to induce the Government of India to re-publish these instructions of the Court of Directors with an expression of their own concurrence, and to add to them as follows:

In all cases of the "dismissal of public servants the charge against a public servant should be reduced to writing, his defence should be either taken in or reduced to writing, and the decision on such defence should also be in writing." As a reservation it was stated: "In the case of public servants who are dismissed in consequence of facts or inferences elicited at a judicial trial, or in the case of persons who abscond with an accusation over their heads this procedure may be unnecessary or impossible."

3. In May last, by Resolution No. 1549 of the General Department, this Government further added the orders that "the dismissing authority should always record in English, under his own handwriting, a statement showing briefly but clearly the charges brought against the official, the evidence supporting those charges, the motives which are supposed to have influenced him, and the opinion of the dismissing authority on each charge."

4. Cases that have lately come before Government suggest that even additional fullness and precision should be given to the orders of Government.

5. The Governor in Council would first observe that the state of things now calling for correction is not quite the same as that which attracted the notice of the Court of Directors in 1851. The Court had in view the habit of dismissing Native officials in consequence merely of the unfavourable opinion of their superiors, or for slight reasons, but as a rule subordinates are now dismissed only on very precise charges of delinquency. The same disposition of mind, however, on the part of European superiors which in former days led to the dismissal of Native subordinates on slight charges now too often leads to the hasty acceptance of evidence as establishing serious charges.

6. The Governor in Council will now state why the late rules do not sufficiently ensure that the defence of a Native subordinate shall be patiently heard before his dismissal is recommended or ordered. The rules required that the charge shall be reduced to writing, that the defence shall be given in or reduced to writing, and that the decision shall be in writing, and comprise certain details. But all this is compatible with the disposal of the case in a very offhand way. It would seem indeed as if the rules were sometimes taken as meaning that the charge against the accused might be communicated to him and his explanation taken by correspondence, whereas the first principles of justice require that he should be brought before the enquiring officer in person. Again it is not enough that he should be told of the charge he has to meet; he should be told also of the evidence and arguments in support of the charge before he is required to defend himself. It is very unfair that he should not know the case against him until the enquiring officer has actually committed himself to a decision.

7. The necessary orders so far are that an enquiry in judicial form should precede an order or recommendation for dismissal. It is not meant that the admission of evidence should be restricted by the law of judicial evidence. All evidence which in the opinion of the enquiring officer conduces to moral conviction should be admissible, but in whatever form received it should be noted and explained to the person charged. Much evidence could be recorded simply in the form of questions to which the person charged should be required to give specific answers. He should be allowed besides to place on record a full written statement of his defence.

8. In the next place, some principles should be laid down for guidance in those cases where there is strong suspicion rather than actual proof against the person implicated. The intention of Government is that no servant of theirs should be dismissed except on proof, but proof in the great majority of cases, even in a Court of justice, means no more than a preponderance of probabilities and the estimate of what the preponderance ought to be, and it varies with the temperament of the judging officer. Executive officers in the matter of dismissals have to discharge the judicial function, but do not always possess the judicial faculty. It is necessary therefore to lay down as a general rule that no subordinate should be dismissed except on grounds capable of being stated. There is a distinction between judicial enquiries and departmental enquiries as regards the admissibility of evidence, but there should be no distinction as regards the decision being based solely on the evidence admitted.

9. It may indeed be thought that in some cases a compromising suspicion is in itself a sufficient reason for removing a subordinate from the service of Government, but, if so, this should be honestly stated, and there should be no pretence of proof when there is only suspicion. The subordinate should not be dismissed with disgrace, but allowed to resign, or simply relieved of his office. And in such cases it is more necessary than ever that the exact case against him should be carefully recorded, in order that he may, if possible, satisfy any other employer who has the means of livelihood in his gift.

10. The possibility of men being removed from the public service on mere suspicion suggests the difficult question of the moral liability of Government in such cases to make compassionate allowances. It has been decided, and the Governor in Council thinks rightly, that the admission of such liability would work mischief to the public service in its general effect. But if a man has earned or nearly earned his pension, his would not be a proper case for removal on suspicion. He would necessarily be an old servant of Government, who has reached a time of life when it would be most improbable that he could turn to any other occupation for a livelihood. The sudden beggary of a man whose working days are drawing to a close is as serious an exercise of power as the penal sentence of a Court of justice, and should not be inflicted on haphazard principles. The Pension Rules, moreover, provide that a portion of the pension may be withheld from those whose service has not been entirely approved.

11. The Governor in Council considers that in proportion as the evidence falls short of full proof, consideration should be given to the previous character of the subordinate concerned, and especially to any specific instances of good or bad service that may have been officially noted in his case. It would seem sometimes as if previous good conduct was regarded as an aggravation of a man's offence, as showing concealment of his true character. It would in the opinion of the Governor in Council, apart from the question of evidence, work well for the service of the public if subordinates were able to feel that a good character and acts of good service would stand them in real stead when their conduct is exposed to question.

The admission, however, of evidence of previous bad character requires great caution. It was argued lately in a petition that if one fault is taken as evidence of another, the first punishment of a small fine expands into dismissal by a sort of natural growth. It is certainly not uncommon for dismissing officers to support a weak case by reference to previous punishments for misconduct, too slight for confidence that it received close attention.

12. Controlling officers, as for instance Commissioners, to whom orders of dismissal are submitted for confirmation, or on appeal, should be reminded that they have an individual responsibility of their own. They must of course on certain points, like all appellate authorities, place confidence on the judgment of the officer who has personally conducted the enquiry, but they should withhold this confidence unless it is clear from the proceedings that the enquiring officer has acted with care and fairness. No defects in the record of enquiry should be passed over with such reflections as that the enquiring officer is a very careful man, and that he probably knows a good deal more about the

case than he has been able to say. If there are such defects the case should be remanded for further enquiry, and the controlling officer should commit himself to no opinion of his own till the case is as complete as it can be made.

13. Lastly, the Governor in Council observes that the reservation of the Government of India quoted in paragraph 2 of this Resolution to the effect that the prescribed procedure might be unnecessary "in the case of public servants who are dismissed in consequence of facts or inferences elicited at a judicial trial," has been, in some cases, misunderstood. Doubtless trials may occur in which the conduct of some public servant is so mixed up with the matter under adjudication that any after-enquiry into it by the head of his Department would be superfluous, but what oftener happens is that some censure is passed on a public servant in a side remark from the Bench, which he has no opportunity of answering, or which the presiding officer may not have thought of sufficient importance to require verification. It would be extremely hazardous and unfair to accept such a remark as a deliberate judgment, and there seems no safe general rule except that a public servant, unless himself convicted at a judicial trial, has a right to defend himself departmentally against any imputation that he may have therein incurred.

14. The system enjoined might result occasionally in undesirable individuals being retained in the service who would otherwise be got rid of, but the Governor in Council is satisfied that its general tendency would be to raise the tone of the Native subordinate service. Any disposition on the part of superiors to seek opportunities of making examples, and to act on general impressions in disposing of specific charges, is calculated to encourage the prevailing habit of intrigue and false accusations among their Native subordinates. So far as dismissals are examples rather of the precariousness of the Government service than of a strictly just discipline, their effect must be demoralising. Such examples, instead of having a deterrent effect, must rather suggest the use of opportunities for laying by provision for the future, in case the Government pension should never be attained.

15. The Governor in Council has purposely confined these remarks to dismissals for misconduct. Dismissals for inefficiency, though equally falling within the scope of the observations of the Court of Directors in 1851, depend on a different set of principles, and His Excellency in Council has not observed any need for correction in the practice of dealing with this class of cases.

16. The case of peons differs in some respects from that of Government servants of a superior class. Though their service is pensionable, they belong to the class of cultivators and the lower rank of domestic servants; their parents have put themselves to no sacrifices to educate them for the public service, and they require to be kept very strictly in hand. But however unwilling the Government may be in such cases to interfere with the discretion of Departmental authorities, it will be gathered from what has been said that the Governor in Council expects from the responsible officers the exercise of a fair and impartial consideration of the case even of the humblest servants of Government. Loose decisions and inconsiderate dismissals are stains upon the administration.

*Dismissals: General principles to be observed when public servants are merely removed or discharged and when they are dismissed.*

No. 3498.

GENERAL DEPARTMENT.

Bombay Castle, 22nd August 1895.

Memorandum from the Public Works Department of the Secretariat, No. 651-E., dated 4th August 1894.
Memorandum from the Legislative Department of the Secretariat, No. 181, dated 8th August 1894.
Letter from the Political Department of the Secretariat, No. 4981, dated 11th August 1894.
Memorandum from the Judicial Department of the Secretariat, No. 5751, dated 18th August 1894.
Memorandum from the Military Department of the Secretariat, No. 1445-G., dated 25th August 1894.
Memorandum from the Marine Department of the Secretariat, No 262-G., dated 5th September 1894.
Memorandum from the Ecclesiastical Department of the Secretariat, No. 103-G., dated 5th September 1894.
Letter from the Educational Department of the Secretariat, No. 1887, dated 12th September 1894.
Memorandum from the Financial Department of the Secretariat, No. 3132, dated 25th September 1894.
Memorandum from the Public Works Department of the Secretariat (Railway), No. 1948, dated 1st October 1894.
Memorandum from the Revenue Department of the Secretariat, No. 8182, dated 4th October 1894.

} Replying to Government Resolution No. 2233, dated 24th July 1894.

Letter to the Government of India, No. 4738, dated 15th December 1894.

Letter from the Government of India, Home Department (Public), No. 10-PUBLIC—918, dated 15th June 1895:—

"In the Circular letter from this Department, No. 11-PUBLIC—1085-1094, dated the 21st June 1894, the Government of India enquired what rule was observed with regard to giving Government officers necessary information as to dismissals of public servants; whether any difference was made between cases where re-employment is prohibited and where it is not; and whether in any case of dismissal in which it is decided to issue a public notification, the cause which led to the dismissal is specified. The replies received to the letter of 21st June show that an uniform practice is not observed in the different Provinces in dealing with this matter. The Governor General in Council accordingly deems it desirable to state the general principles which should be observed in disposing of such cases.

"2. In the first place His Excellency in Council desires to direct attention to the distinction that exists between the removal or discharge, and the dismissal, of a public servant. Removal from office for such a cause as unfitness for the duties of the office need not usually entail any further consequences. It ought not to bar re-appointment to another office for the duties of which the person may be suited, and it should not be accompanied by any subsidiary orders which would operate as such a bar or otherwise prejudice the person in question. Removal should be the penalty in all cases where it is not thought necessary to bar future re-employment under Government.

"3. In cases of dismissal, on the other hand, the effect of the order should be to preclude the dismissed officer from being re-employed. Ordinary cases of the dismissal of non-gazetted officers need not be notified in the *Government Gazette*. As a precaution against the inadvertent re-employment of men who may have been dismissed, it would be sufficient to rule that officers should ascertain whether an applicant for a post has been in Government service before, and should refer to his previous employer if the circumstances connected with his discharge are not clear. The applicant should be required to produce a copy of his character book or other record of service, and a person who succeeds in obtaining employment by the concealment of his antecedents would obviously merit dismissal on the true facts being discovered. The sanction of the Local Government or Administration should always be required to the re-employment of persons dismissed.

"4. The dismissal of public servants should, the Governor General in Council considers, be notified in the Gazette only in the following cases, viz., (1) when it is necessary to notify the public of the removal from service of an officer, whether because his appointment was previously gazetted or from any other cause, and (2) when it is specially desired to exclude from re-employment in the service of Government a public servant who has been dismissed for a heinous offence, such as fraud or falsification of accounts.

"5. The reasons for the dismissal of a public officer should not be stated in the notification regarding his dismissal even in cases in which a conviction has been obtained in a Criminal Court. It will be sufficient to announce in the case of any person, whose dismissal will be notified in accordance with the principle laid down in paragraph 4 of this circular, that the Government has dispensed with his services, except in those cases in which the cause of dismissal constitutes a disqualification under the terms of the law regulating the tenure of a particular appointment, and it is for this reason necessary to couple with the announcement of the dismissal a statement of the grounds upon which it has been ordered.

"6. The Government of India leave it to the Local Governments to make such arrangements as they think necessary for securing that officers serving under them are informed what Government servants, other than those whose dismissals have been gazetted, have been dismissed. There is not before the Government of India sufficient evidence to show that it is necessary to communicate such information between Provinces, if the precautions above mentioned are taken by officers when making appointments to vacant posts."

RESOLUTION.—Copies of the letter from the Government of India should be forwarded to all Departments of the Secretariat and to all Heads of Offices for information and guidance.

2. With reference to paragraph 6 of the letter it does not appear necessary to do more than to adopt the precautions mentioned in paragraph 3 thereof.

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*Dismissals : Procedure to be followed in cases of dismissal of public servants.*

No. 6117.

GENERAL DEPARTMENT.

Bombay Castle, 7th November 1898.

Letter from the Government of India, Home Department (Public), No. 2032, dated the 15th October 1898 :—

"In several recent cases of Government servants dismissed for misconduct it has been noticed that the charges laid against them have been investigated in a very unsatisfactory manner. The attention of Local Governments and Administrations is therefore drawn to the instructions contained in the Resolution of the Government of India, Home, Revenue and Agricultural Department (Public), No. 37—1389-1404, dated the 29th July 1879. It is there laid down that in all cases of dismissal of public servants, except in cases of dismissal in consequence of facts or inferences elicited at a judicial trial, or when persons have absconded with an accusation over their heads, the charges must be reduced to writing, the defence must either be taken in or reduced to writing, and the decision on the defence must also be in writing. I am to request that the strict observance of these instructions may again be impressed upon all officers concerned."

RESOLUTION.—Copies of the letter from the Government of India should be forwarded to all Departments of the Secretariat and to all Heads of Offices for information and guidance, with reference to Government Resolution No. 2218, dated the 18th August 1879.

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*Official conduct : A municipal vaccinator disobeying orders directing him to do plague duty.*

No. 5055.

GENERAL DEPARTMENT.

Bombay Castle, 18th September 1897.

Letter from the Collector and President, Plague Committee, Hyderabad, No. 3905, dated the 24th July 1897—Forwarding copy of a Resolution passed by the Plague Committee on the subject of the inadequacy of the punishment inflicted by the Sanitary Commissioner for the Government of Bombay in the case of a vaccinator who absconded during the plague, and in whose case the Plague Committee had decided that he should be reported to the Deputy Sanitary Commissioner as having been absent without leave from 1st April until the end of May 1897 with forfeiture of past service and pension, together with copy of the following letter No. B.—3000, dated 30th June 1897, from the Sanitary Commissioner :—

"With reference to the correspondence ending with your letter No. 1429-K. of 14th June 1897, I think it is a severe punishment to consider this vaccinator, Tirithmal Vadhumal, as absent without leave because he has refused to do plague duty. It involves the forfeiture of the results of 21 years of work. He is a vaccinator suddenly ordered to do entirely different kind of work, and in ignorance and fear he absents himself. My opinion is that those vaccinators who stuck to their work and did plague duty should be rewarded by those who employed them and marked out by the Deputy Sanitary Commissioner for promotion as soon as they can be promoted to the exclusion of those who did not so work, and in this particular case I consider leave without pay from 10th April to the time he rejoined his work will be enough punishment, together with the probable loss of promotion."

Memorandum from the Commissioner in Sind, No. 3857, dated the 6th August 1897—Submitting the above for orders ; and observing as follows :—

"2. A municipal vaccinator was ordered by the Plague Committee to do plague duty at the Detention Camp, Hyderabad, on April 10th. He immediately absconded and was dismissed. The Plague Committee, however, were willing to re-employ the man provided his past service was forfeited, and reported the case to the Deputy Sanitary Commissioner, Sind Registration District.

"3. The Sanitary Commissioner appears to consider that Government servants ordered by competent authority in a crisis to assist are at liberty to consult their own convenience, and considers that leave without pay from 10th April to 31st May and probable loss of promotion are sufficient punishment.

"4. Leave without pay for three months was what the man asked for on 27th April more than a fortnight after his disappearance and the request was refused. This is, therefore, no punishment and the loss of promotion is to be only 'probable.' The Plague Committee respectfully request that their decision may be upheld.

"5. In the Acting Commissioner's view sufficient weight has not been given by the Sanitary Commissioner to the gravity of the offences of disobedience and desertion. If the vaccinator objected to the order for any reason, it was his duty first to obey and then to submit his objections to his superior officers. Not only did the vaccinator not obey, but he deserted his post of vaccinator by running away. The vaccinator was in municipal employ and was doing nothing. The Municipality were utilising every available person on plague duty. Had the Sanitary Commissioner issued the order and the vaccinator had acted as he did, it may be safely assumed that the Sanitary Commissioner would have dismissed the man, and because the order was issued by the Plague Committee, the Acting Commissioner would respectfully submit it cannot be treated differently.

"6. The Plague Committee would have been only too glad to take a lenient view were such a course advisable. The Acting Commissioner with due deference holds that in the interests of discipline they could not have done otherwise, and would venture to recommend that their action be confirmed."

Letter from the Sanitary Commissioner for the Government of Bombay, No. 3801-B., dated the 24th August 1897—Submitting his remarks with reference to Government memorandum No. P.—1210-P., dated 12th idem; and observing as follows:—

"* * * He (the vaccinator) was placed at the disposal of the Plague Committee and ordered to do plague work, a work of quite a different character, without, as far as I can gather, any extra inducement being held out to him to do it. Having reason to believe that men of a much higher training (such as men medically trained though not in Government service) had refused to come forward to do plague duty, I thought that a man who was suddenly transferred from vaccination work to plague work and absconded through fear, as no doubt he did, did not deserve to lose the fruits of 21 years' service and so I wrote letter No. 3000-B. of 30th June 1897, a copy of which is in the papers attached. The 'probable loss of promotion' is very probable indeed, but it was put in that particular way as unforeseen circumstances might arise in the future.

"He was ordered to recommence vaccination work in Hyderabad again as there was no candidate available."

RESOLUTION.—The vaccinator, Tirithmal Vadhumal, absented himself without leave from his *ordinary* duties at a particularly critical period. The punishment which the Sanitary Commissioner proposes for this very serious breach of discipline appears to Government utterly inadequate.

2. Whether the vaccinator could rightly object to being employed on plague duty, or whether such employment should entitle him to special remuneration, are matters beside the immediate question. His offence was sufficient to justify his dismissal.

3. As, however, a more lenient course has been recommended, the Governor in Council will not take exception to the man being allowed to resume his duty, but no indulgence can be granted in respect of the period for which he absented himself from his post, and he must take all the consequences which such absence without leave entails.

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CIRCULAR.

No. 3150 OF 1867.

POLITICAL DEPARTMENT.

FROM

C. GONNE, ESQ.,

Secretary to Government, Bombay;

To

THE SECRETARY TO GOVERNMENT,

Revenue, General and Financial Departments.

(For such action as may be deemed necessary.)

SIR,

I am directed to communicate to you the subjoined extract from a letter from the Government of India, dated 11th September, No. 1543 of 1867.

It was proposed to the High Courts of Bengal and North-Western Provinces to issue a Circular order to the following effect:—

"A variety of practice and consequent doubts having been found to exist as to the manner in which Native gentlemen, who have adopted the English habit of dress in respect of boots or shoes and stockings, should be allowed to appear at receptions, public and private, and in Courts of Justice, His Excellency the Governor General in Council has been pleased to prescribe the following rule for general observance in the Political Department:—